

**HARDIN, LEFTON, LAZARUS & MARKS, LLC**

ATTORNEYS AND COUNSELORS AT LAW

DONALD E. HARDIN  
DAVID H. LEFTON  
STEPHEN S. LAZARUS\*  
EDWARD G. MARKS  
DAVID E. HARDIN  
KIMBERLY A. RUTOWSKI

915 CINCINNATI CLUB BUILDING  
30 GARFIELD PLACE  
CINCINNATI, OHIO 45202-4322  
TELEPHONE: (513) 721-7300  
FACSIMILE: (513) 721-7008

OF COUNSEL:  
GARY R. LEWIS  
GARY R. LEWIS CO., LPA  
(513) 665-9222

\*ALSO ADMITTED IN D.C.

April 16, 2004

Paul B. Martins, Esq.  
Helmer, Martins & Morgan Co., L.P.A. (Sent via facsimile transmission to  
Fourth & Walnut Centre, Suite 1900 (513) 421-7902 with hard copy  
105 East 4<sup>th</sup> Street follow up)  
Cincinnati, Ohio 45202-4008

Re: *Estate of Roger D. Owensby, Jr. v. City of Cincinnati, et al.*

Dear Paul:

On March 12, 2004, following the deposition of your named expert pathologist, Dr. Cyril Wecht, I sent a public records demand to the City Manager of Cincinnati requesting, in part, the names of the persons who met with Dr. Wecht on August 14, 2002, prior to release of his final Opinion to the Office of Municipal Investigation on September 10, 2002 (Wecht Deposition Ex. 3). On April 14, 2004, I was informed that Lt. Colonel Richard Biehl was one of those persons in attendance at that meeting.

Yesterday, I discussed the matter with Lt. Col. Biehl, and he advised that he had taken notes during that meeting, recording a number of Dr. Wecht's comments regarding the possible cause of Roger Owensby's death, the nature of Mr. Owensby's injuries, and the source of the "deep muscular trauma" discovered during the autopsy. Since I just received a copy of his notes yesterday at 2:49 p.m., this is my first opportunity to provide you with a copy of those notes that were made by an official of the City of Cincinnati and kept in the ordinary course of its business.

Due to the fact that the document was unknown to me at the time of Dr. Wecht's videotaped deposition, that I understand you intend to play at the trial rather than present Dr. Wecht for live testimony, I may need to schedule Dr.

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Paul B. Martins, Esq.

April 16, 2004

Wecht's trial videotape deposition on behalf of my defendant police officers to question him about this newly-discovered evidence.

Very truly yours,

HARDIN, LEFTON, LAZARUS & MARKS, LLC

  
Donald E. Hardin

DEH:jmj

cc: Neil F. Freund, Esq., Geri H. Geiler, Esq.,  
Wilson G. Weisenfelder, Jr., Esq., and Ravert J. Clark, Esq.  
(Sent via facsimile transmission with hard copy follow ups)

Enclosure

8/14/02 N. Cyril Wacht 572 Southview, Pittsburg, MO

Combination (of factors) is very likely

I leave the report open

Heart occlusion may have had some role

- cannot rule it out

injury could have been a contributing factor

Cannot rule out punch or punches as  
the source of the deep muscular trauma

Arm over nose/mouth cannot be ruled out as a factor

do not have substantiated, significant injury